

### **REMARKS**

The Examiner issued a Non-Final Office Action in which she: (1) rejected claims 12-20 and 41 under 35 U.S.C. §102(e) as being anticipated by Dole *et al.* (2003/0044366 A1); and (2) rejected claims 12-20 and 41 under 35 U.S.C. §103(a) as being unpatentable over Dole *et al.* (2003/0044366 A1) and Ptchelintsev *et al.* (U.S. Patent No. 6,562,321). Applicants have amended the claim set above and respond to the rejections as follows:

#### **Amendments**

Applicants amended claim 12 by adding a limitation that the retinoic acid is present in an amount “greater than 5%” and adding the following limitation with respect to the composition “the composition further comprising a cosmetic cream base in an amount by weight comprised of between 0.2% and 1% with respect to the weight of the excipients.” These amendments draw support for example, in previously pending claims 15 and 42.

By combining the specified amount of retinoic acid and cosmetic cream, Applicants have invented a compound that provides the synergistic advantage of improvement of skin subject to cutaneous aging. Further, by formulating the invention as a self-curing mask, there is no transpiration of vapor because an impermeable layer is formed. In turn, the humidity rests on the skin and helps to counteract the irritative effect of the retinoic acid, while the cosmetic cream cures the skin. This simultaneous action provides a lucent, younger skin without causing long-lasting irritation that would otherwise be unavoidable with such amounts of retinoic acid.

Response to Rejection of claims 12-20 and 41 under 35 U.S.C. §102(e)

The Examiner rejected claims 12-20 and 41 as being anticipated by Dole. Dole is directed to a composition comprising a colorant and silica that is to be used as a facial cleanser. These components are not present in the claimed composition.

Dole does disclose the use of retinoic acid as an anti-aging agent, however, Dole only specifies the use of up to 5% retinoic acid. Moreover, Dole does not disclose the use of a cosmetic cream base in association with retinoic acid. Because Dole fails to disclose these limitations, which are part of amended claim 12 and the claims that depend on it, Applicants respectfully submit that the rejection should be withdrawn.

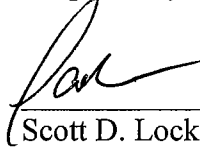
Response to Rejection of claims 12-20 and 41 under 35 U.S.C. §103(a)

The Examiner also rejected claims 12-20 and 41 as being unpatentable over Dole, as well as Ptchelintsev. Ptchelintsev is directed to a de-pigmenting composition that contains de-pigmenting agents of certain specified formulas that are not part of the claimed composition. Further, although retinoic acid is disclosed in Ptchelintsev, the reference does not describe an amount that should be used. Finally, no cosmetic cream base is described in Ptchelintsev. Therefore, because Dole and Ptchelintsev each and in combination fail to disclose the claimed amount of retinoic acid in combination with a cosmetic cream base, Applicants respectfully submit that this rejection should be withdrawn as well.

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Applicants submit that no fees are believed due. However, should any fees be due, please charge Deposit Account No. 11-0171.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Scott D. Locke', is written over a horizontal line.

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